

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 98-042

October 6, 1998

COMM SOUTH COMPANIES, INC.  
Petition for Finding of Public  
Convenience and Necessity to  
Provide Service as a Local  
Exchange Telephone Utility

ORDER GRANTING AUTHORITY  
TO PROVIDE LOCAL SERVICE  
AND APPROVING SCHEDULE  
OF RATES AND TERMS  
AND CONDITIONS

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

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In this Order, the Commission grants Comm South Companies, Inc. (Comm South or the Company) the authority to provide competitive local exchange service in the service area of the New England Telephone and Telegraph Company d/b/a Bell Atlantic within the State of Maine, and approves the Company's Terms and Conditions and Rate Schedules. We also exempt Comm South from the requirements of Chapter 210, *Uniform System of Accounts*, and of 35-A M.R.S.A. §§ 707 and 708, subject to the conditions described below.

**I. APPROVAL OF APPLICATION TO SERVE**

On January 16, 1998, pursuant to 35-A M.R.S.A. §§ 2102 and 2105, Comm South filed a petition with the Commission requesting authority to provide local telephone service in Maine. On May 29, 1998, the company revised its request and submitted a substitute page of its proposed schedules. Comm South plans to provide resold basic load telecommunications services to residential customers in Maine, on a prepaid basis only. Comm South intends to block customers' ability to make direct-dial toll, directory assistance, operator-assistance, and third-number billed calls, and to receive collect calls.

35-A M.R.S.A. § 2105 requires us to find that the public convenience and necessity require another utility to serve where another utility is already authorized or is providing the same or similar service, before we grant approval under section 2102 for an additional public utility to provide service.

47 U.S.C. § 253(a), enacted by the Telecommunications Act of 1996, states:

(a) In General. No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunication service.

47 U.S.C. § 253(b) states, however:

(b) State Regulatory Authority. Nothing in this section shall affect the ability of a State to impose, on a competitively neutral basis and consistent with section 254, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.

We find that granting Comm South the authority to provide local exchange service will not impede the preservation or advancement of the public interest goals or policies stated in section 253(b).

Comm South's application provides reasonable information indicating that its financial and management capabilities are adequate to provide local services in Maine.

## **II. APPROVAL OF TERMS AND CONDITIONS AND RATE SCHEDULES**

We allow the terms and conditions proposed by Comm South, as refiled on May 29, 1998 pursuant to discussions with the staff, to go into effect. Comm South has used the Commission's expedited process. That process includes standard terms and conditions that comply with the Commission's Rules. We have reviewed the Company's petition, Terms and Conditions, and Rate Schedules, and they appear to comply with Maine law and the Commission's Rules. Nevertheless, if there is any conflict between a provision in Comm South's terms and conditions and the Commission's Rules or a statute, the rule or statute will govern.

In general, the Commission believes that a competitive telecommunications market results in services and rates that benefit the public. We believe that the acceptability of Comm South's services and rates in the market place provides an

adequate test of the reasonableness of the Company's rates. Accordingly, we allow the rates proposed by Comm South to go into effect.

### **III. INTERCONNECTION AGREEMENT(S)**

In order to provide local exchange service, a competitive local exchange carrier must, as a practical matter, obtain an interconnection agreement with the ILEC(s) providing service in any area where it intends to provide service. In the absence of such an agreement, it will not be possible for Comm South's customers to call customers of the ILEC(s), and vice versa. Interconnection agreements are governed by 47 U.S.C. § 252, and must be approved by this Commission.

If a competitive local exchange carrier (CLEC) makes a bona fide request for an interconnection agreement with an ILEC that is a "rural telephone company" as defined in 47 U.S.C. § 153(37), the "rural exemption" of 47 U.S.C. § 251(f) will apply. All of Maine's independent telephone companies are "rural telephone companies." A rural telephone company is not required to negotiate an interconnection agreement or provide interconnection until after the Commission, pursuant to 47 U.S.C. § 251(f)(1)(B), finds that the requirement "is not unduly economically burdensome, is technically feasible, and is consistent with [the universal service provisions of] section 254 . . . ."

As a condition of providing local exchange service, Comm South must comply with the terms of any interconnection agreements that it has reached with any ILECs and that have been approved by the Commission. The Commission approved a resale agreement between Comm South and the New England Telephone and Telegraph Company d/b/a Bell Atlantic on April 22, 1998, in Docket No. 98-175.

### **IV. WAIVERS; REPORTING REQUIREMENTS**

As a condition of providing local exchange service, Comm South must comply with the terms of any applicable Commission orders or rules that may govern local interconnection and compensation for interconnection. Comm South shall also comply with any applicable Commission Rules or orders that govern

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universal service, public safety and welfare, service quality and consumer rights.

In its request for authority, Comm South requested a waiver from the requirements of Chapter 210 of the Commission's Rules, which governs telephone utility accounting, and from 35-A M.R.S.A. §§ 707 and 708, which govern reorganizations and affiliated interests. Because Comm South's rates and operations are likely to be subject to market forces, we do not see any present need to subject the Company to those requirements. However, Comm South must report its annual intrastate gross operating revenues and its annual intrastate minutes for use for the purpose of determining its regulatory assessment.<sup>1</sup> If Comm South resells service to other switched or switchless telephone service providers, the Company must maintain its records so that it may separately identify those sales.

In addition, Comm South shall inform the Commission of any changes to its corporate structure and ownership and of any changes in the name under which it does business, as set forth in Ordering Paragraph No. 3. If necessary, it shall also refile its rate schedules and terms and conditions to reflect its new identity.

#### **V. OTHER REQUIREMENTS**

Comm South shall comply with all applicable rules of the Commission and statutes of the State of Maine.

#### **VI. ORDERING PARAGRAPHS**

Accordingly, we

1. Grant, pursuant to 35-A M.R.S.A. §§ 2102 and 2105, the request of Comm South Companies, Inc. to provide local exchange telephone service in the service area of the New England Telephone and Telegraph Company d/b/a Bell Atlantic within the State of Maine;

2. Exempt Comm South Companies, Inc. from the requirements of Chapter 210 of the Commission's Rules, except that it must

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<sup>1</sup> The Commission mails the annual reporting forms to carriers in January of each year. The completed forms are due by April 1 of each year.

report the revenue and minutes of use information that is requested by the Commission, on or before April 1 of each year;

3. Exempt Comm South Companies, Inc. from the approval requirements of 35-A M.R.S.A. §§ 707 and 708, provided that Comm South Companies, Inc. shall notify the Commission of any reorganization, as defined in 35-A M.R.S.A. § 707(1)(A), that results in a merger, sale or transfer of a controlling interest of Comm South Companies, Inc. or of any entity that owns more than 50% of Comm South Companies, Inc. Comm South Companies, Inc. shall also provide notice of any other changes in the name under which it does business (d/b/a), any change of the location of its business office, and change of its contact person. Comm South Companies, Inc. shall provide the Administrative Director of the Commission with notice of any of the changes described within 30 days following the change. If necessary, Comm South Companies, Inc. shall amend its rate schedules and terms and conditions to reflect any change in identity; and

4. Direct that Comm South Companies, Inc., proposed terms and conditions and rate schedules listed below and attached to this Order, shall be effective on the date of this Order.

Title Page	Original, filed January 16, 1998
Pages 1 through 16	Original, filed January 16, 1998
Page 17	Original, filed May 29, 1998
Pages 18 through 20	Original, filed January 16, 1998

Dated at Augusta, Maine, this 6th day of October, 1998.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:	Welch
	Nugent
ABSTAINED:	Diamond